



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4  
ATLANTA FEDERAL CENTER  
61 FORSYTH STREET  
ATLANTA, GEORGIA 30303-8960

CERTIFIED MAIL 7017 1450 0000 7973 2939  
RETURN RECEIPT REQUESTED

JUN 25 2019

Mr. Charles Browning  
President  
Alabama Aggregate, Inc.  
7389 Highway 137  
Valley Head, Alabama 35989

Re: Information Request Letter 308-019-003

Dear Mr. Browning:

The U.S. Environmental Protection Agency Region 4, has learned that Alabama Aggregate, Inc. (AA), leases property on which sand and gravel mining has been conducted without U.S. Army Corps of Engineers Clean Water Act (CWA) section 404 permits, 33 U.S.C. § 1344. The location of the sand and gravel mine, known as the Mims Pit, is north and south of Autauga County Road 19, adjacent to Swift Creek in Autauga County, Alabama, near 32.622° north longitude and 86.667° west longitude (See Exhibits A and B). The EPA is investigating AA's compliance with the CWA. Therefore, pursuant to Section 308 of the CWA, 33 U.S.C. § 1318, the EPA hereby requests that AA provide the information set forth in Enclosure A within 30 days of receipt of this letter. Your response should be sent to:

Mr. Mike Wylie  
U.S. Environmental Protection Agency, Region 4  
Atlanta Federal Center  
Water Enforcement Branch  
61 Forsyth Street S.W.  
Atlanta, Georgia 30303

All information submitted must be accompanied by the following certification signed by a duly authorized company official in accordance with 40 C.F.R. § 122.22:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

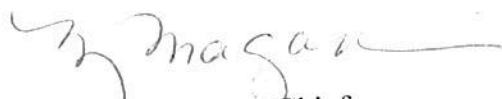
Failure to provide a full and complete response to this information request or to adequately justify a failure to respond within the time frame specified above may result in an EPA enforcement action pursuant to federal law, including, but not limited to 33 U.S.C. § 1319 and 18 U.S.C. § 1001.

If AA believes that any of the requested information is Confidential Business Information (CBI), it may assert a business confidentiality claim with respect to such information in the manner described by 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in Subpart B, Part 2, 40 C.F.R. § 2.201 *et seq.* Please separate documents that you wish to protect as CBI from non-confidential documents. Sending documents claimed as CBI electronically to the EPA is done at the risk of the claimant, as the EPA does not have the capability to encrypt electronic information. The EPA requests that any such information be physically mailed to the address provided. If AA does not assert a CBI claim, the EPA may make information submitted under this request available to the public without further notice to AA. Additional information regarding the EPA's requirements for confidential treatment of information can be found in Subpart B, Part 2, 40 C.F.R. § 2.201 *et seq.*

We have also enclosed a document that provides information for small businesses that may be subject to an EPA enforcement action. This document is for your use and to assist you in understanding the compliance assistance resources and tools available to you. Any decision to seek compliance assistance at this time, however, does not relieve AA of its obligation to the EPA nor does it create any new rights or defenses and will not affect the EPA's decision to pursue enforcement action.

If you have any questions concerning this matter, please contact Mr. Mike Wylie at (404) 562-9409 or have your attorney contact Ms. Natalie Beckwith, Associate Regional Counsel, at (404) 562-9051.

Sincerely,



Mary Jo Bragan, Chief  
Water Enforcement Branch  
Enforcement and Compliance Assurance Division

Enclosures

cc: Mr. James Cherry  
U. S. Corps of Engineers, Mobile District

Ms. Catherine McNeill, ADEM

Mr. Jeff Kitchens, ADEM

Mr. Donny Roughton  
Alabama Aggregate, Inc.



## EPA SECTION 308 INFORMATION REQUEST

### Instructions

1. Please provide a separate narrative response to each and every Question and subpart of a Question set forth in this information request.
2. Precede each answer with the number of the Question to which it corresponds.
3. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question to which it responds.
4. You must provide the information requested even though you may contend that it includes confidential business information (CBI) such as trade secrets. You may, if you desire, assert a CBI claim covering part or all of the information requested, under 40 C.F.R. § 2.203(b), by attaching to such information at the time it is submitted, a cover sheet with the words "trade secret," "proprietary," or "company confidential" stamped or typed on it. Information covered by such claim will be disclosed by EPA only to the extent, and only by means, of the procedures set forth in the regulation set forth above. **If you do not assert a confidentiality claim, when you submit your information to the EPA, EPA may disclose the information to the public without further notice to you.** You should read the above cited regulations carefully before asserting a CBI claim, since certain categories of information are not properly the subject of such a claim.

### Definitions

The following definitions shall apply to the following words as they appear in the Questions below:

1. All terms not defined herein shall have their ordinary meanings, unless such terms are defined in the Clean Water Act or its implementing regulations, in which case the statutory or regulatory definitions shall control.
2. Words in the masculine may be construed in the feminine if appropriate, and vice versa, and words in the singular may be construed in the plural if appropriate, and vice versa, in the context of a particular question or questions.
3. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed outside its scope.
4. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business address and business telephone number, present or last

known home address and home telephone number, and present or last known job title, position or business.

5. The term “identify” means, with respect to a document, to provide its customary business description; its date; its number, if any (invoice or purchase order number); the identity of the author, addressee and/or recipient; and substance of the subject matter.

6. The term “identify” means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship), to set forth its full name, address, legal form (e.g., corporation, partnership, etc.), organization, if any, and a brief description of its business.

7. The term “Discharge Area” means any wetlands and streams that have been impacted either through filling and excavating or mechanical land clearing with side cast of dredged and/or fill material. More specifically, the Discharge Area is located on the sand and gravel mine, known as the Mims Pit, south of Autauga County Road 19, adjacent to Swift Creek in Autauga County, Alabama, near 32.622° north longitude and 86.667° west longitude. The Discharge Area is indicated on the enclosed Exhibits A and B.

8. The term “Site” means the parcel or parcels of land on which the Discharge Area is located and is better known as the southern portion of the Mims Pit in Autauga County, Alabama, contained within Autauga County tax parcel maps: 0705160000004000, 070516000000110000, 070516000000110210, 070516000000120000, 07052100000020000, 07052100000010000, and 07052100000010010.

9. The term “Work” means any land clearing activities, ditching, dredging, side casting, road construction, berm construction, stream crossing construction, mechanical land clearing, piping of streams, timber harvesting, excavating, or filling activities that have occurred in wetlands or streams at the Site since you operated on, leased, owned, controlled, or performed any Work on the Site.

10. The term “you” and/or Respondent” shall mean Alabama Aggregate, Inc. (hereafter, “AA”), Mr. Charles Browning and/or any company, entity, or corporation that has directed work at the Site on behalf of AA.

### **Questions**

Please provide EPA with the following information or documents pertaining to the Discharge Area identified in Exhibits A and B:

1. Copies of any deeds, leases, easements, or other documents pertaining to AA’s property interest(s) in the Site, including any earth material or mineral leases.



2. The name and address of any contractor, subcontractor, consultant, agent, or individual who directed or participated in the Work at the Site during AA's mining operation at the Site.
3. The types of equipment used to carry out the Work, and the names and addresses of the person and/or companies that own and/or operate the equipment.
4. The date upon which Work was commenced and the date upon which the Work was completed or will be completed.
5. A description of all Work at the Site performed by Respondent, or on behalf of the Respondent by its contractor(s), subcontractor(s), consultant(s), or agent(s).
6. A description of the entire scope of your activities at the Site including any maps and engineering plans.
7. A description of the condition of the overall Site before Work commenced.
8. A description of the condition of the Discharge Area before Work commenced.
9. Copies of any on-site environmental assessments, including environmental assessments of soils, vegetation or hydrology at the Site.
10. Copies of any Federal, State or local permits that may have been received for the Work on the Site.
11. Your reasons for not obtaining a Federal permit (if you did not do so) under Section 404 of the Clean Water Act prior to commencing the Work at the Site.
12. Plans for any additional filling, excavating, or other land disturbing activities at the Site.
13. Copies of notes regarding any written or verbal communication with Federal, State, or local agencies regarding the Work.
14. The names and activities of all contractors or consultants or other entities that assisted with securing any local, state, or federal permits or easements associated with the Site.
15. Copies of any contracts covering Work at the Site.
16. Please identify the individual or individuals who prepared the responses to this Information Request.

At the end of your response to this information request, please include the following certification:

*I certify that I have personally reviewed the information contained in this response to the information request and the response is truthful, accurate and complete. I further certify that the response to the information request contains all documents responsive to the request. I am aware that there are significant penalties for submitting false information including the possibility of further enforcement under the CWA.*

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Name  
Title





Site Containing the  
Discharge Area

Swift Creek

Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS,  
USDA, USGS, AeroGRID, IGN, and the GIS User Community

Exhibit A

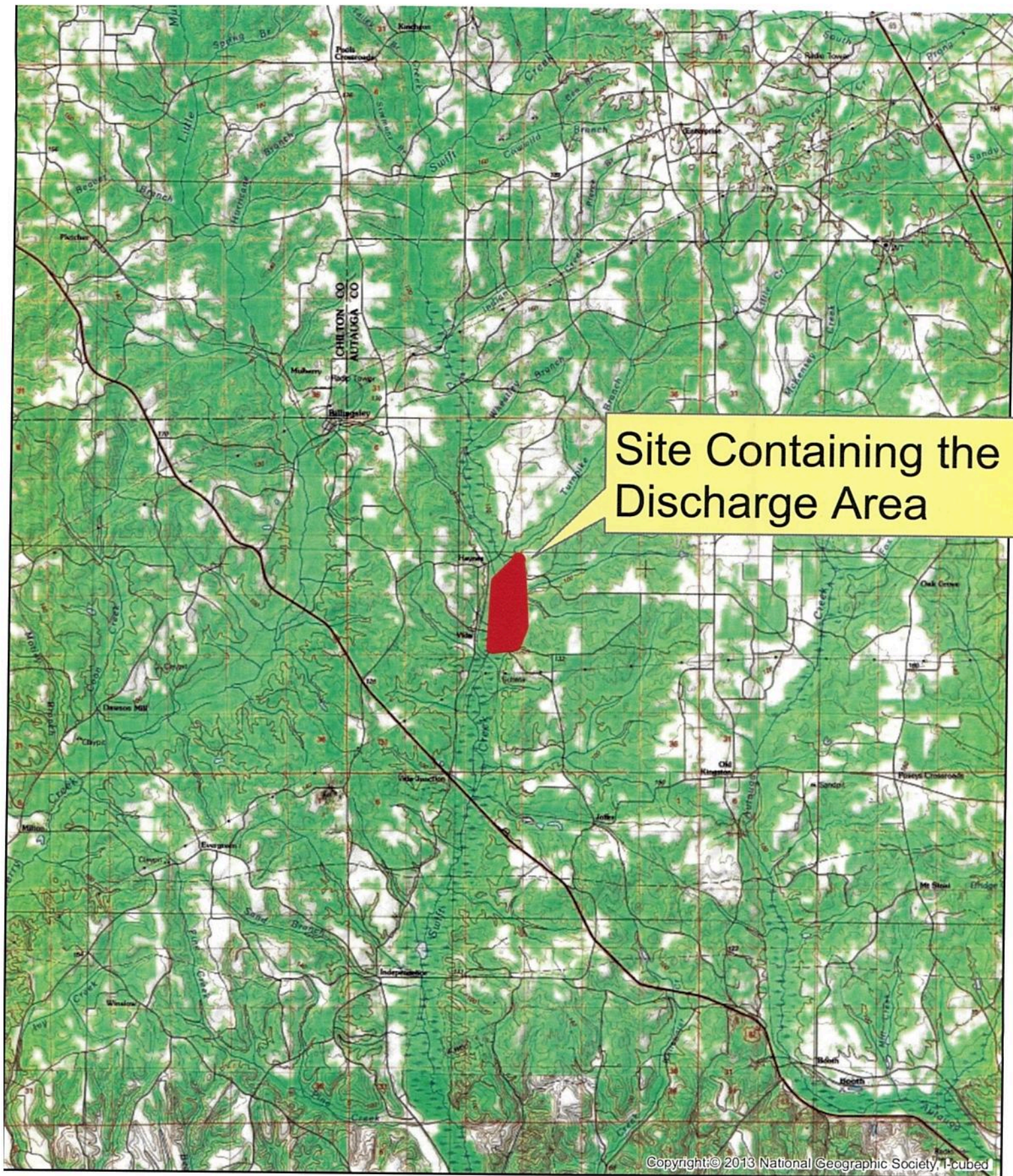
0 0.125 0.25 0.5  
Miles

Mims Pit  
Alabama Aggregates, Inc  
Autauga County, AL









Site Containing the Discharge Area

Exhibit B

Mims Pit  
Alabama Aggregates, Inc  
Autauga County, AL

